

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JANE DOE

Plaintiff,

v.

OLD FORGE BOROUGH, et al.

Defendants.

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3:12-CV-2236
(JUDGE MARIANI)

ORDER

AND NOW, THIS 15th DAY OF JULY, 2015, upon consideration of Defendants Old Forge Borough, Old Forge Police Department, and Old Forge Fire Department's motions to dismiss (Docs. 30, 132) and all accompanying briefs, **IT IS HEREBY ORDERED THAT:**

1. Defendant Old Forge Fire Department's motion to dismiss (Doc. 132) is **GRANTED**.
2. Defendants Old Forge Borough and Old Forge Police Department's motion to dismiss (Doc. 30) is **GRANTED IN PART AND DENIED IN PART:**
 - a. Defendants' motion is **GRANTED IN PART** as to Count IV (42 U.S.C. § 1983 - failure to promulgate policies, failure to supervise, failure to train) of Plaintiff's Amended Complaint but, as explained in the accompanying memorandum opinion, is granted only to the extent that Plaintiff's allegations of sexual abuse or unlawful sexual contact as a basis for imposition of liability on Old Forge Borough are based on a theory that the individual defendants'

actions or conduct could have been prevented if there had been one or more policies in place prohibiting the sexual abuse or harassment of minors or a more rigorous program to train municipality employees not to engage in sexual behavior with minors. In all other respects, including allegations of a failure to enact policies regulating the circumstances and conditions under which minors would be allowed on Borough or Old Forge Hose & Engine premises and for reporting improper and illegal conduct of supervising officers, including Police and/or Fire Department members; and for failing to properly train, discipline, control or sanction firefighters for having naked photos of the minor Plaintiff; and for failing to supervise, oversee, monitor, control, curtail or restrain the actions of Semenza and Krenitsky when, upon information and belief, it is asserted that Old Forge Borough knew from prior acts of misconduct by Semenza and Krenitsky that there was an obvious likelihood that other individuals could suffer physical and psychological injury; Defendants' motion as to Count IV is **DENIED**.

- b. Defendants' motion is **GRANTED** as to Count V (42 U.S.C. § 1983 - violation of substantive due process (actions of person with final authority)) of Plaintiff's Amended Complaint. Plaintiff's substantive due process claim against Old Forge Borough is **DISMISSED WITH PREJUDICE**.
- c. Defendants' motion for a more definite statement is **GRANTED**.

3. Defendants Old Forge Police Department and Old Forge Fire Department are **DISMISSED** from the above-captioned action.
4. In accordance with 2(c) above, Plaintiff shall file her amended complaint within **14 days of the date of this Order** without using a pseudonym. This shall constitute the only change in the amended complaint. Hereinafter, Plaintiff shall be referred to by her legal name in all depositions, motions, and other documents related to this litigation. All previously filed motions and documents do not need to be re-submitted. This ruling shall not affect the status, or allow the disclosure, of any other information protected by the parties' confidentiality agreement.

A handwritten signature in black ink, appearing to read "Robert D. Mariani", is written over a horizontal line.

Robert D. Mariani
United States District Judge